

From: Powell-Dickson, Antoinette
Sent: Wednesday, September 11, 2019 06:55 PM
To: Jessica Christy
CC: Mia, Marcia; Newman, Maya; Battle, Jernell; Scinta, Robert; Benjamin Levitan; Cox, John; Peter Zalzal; Rosalie Winn
Subject: Revisions to your confirmation email

Hi Jessica,

Please see below our corrections to some of the statements made in your email. Please advise if the corrections are acceptable.

From: Jessica Christy <jchristy@edf.org>
Sent: Tuesday, September 10, 2019 8:53 PM
To: Powell-Dickson, Antoinette <Powell-Dickson.Antoinette@epa.gov>
Cc: Mia, Marcia <Mia.Marcia@epa.gov>; Newman, Maya <Newman.Maya@epa.gov>; Battle, Jernell <Battle.Jernell@epa.gov>; Cox, John <cox.john@epa.gov>; Peter Zalzal <pzalzal@edf.org>; Rosalie Winn <rwinn@edf.org>; Benjamin Levitan <blevitan@edf.org>
Subject: RE: CONFERENCE CALL REQUESR re: FOIA Request EPA-HQ-2019-001669

Greetings,

Thank you all so much for taking the time to chat with me today. I forgot to ask EPA which states are authorized implementers for this program, which states generally provide EPA with curtesy copies of compliance reports, and whether those states are consistent in what they provide EPA. We do not have this information in a centralized location. Some regions have websites with delegations and some do not. 40 CFR part 60 includes delegations at 60.4, but I am not sure how often that is updated. Regarding reports, none of our regions have a central repository of whether they had waived receipt of reports a particular state. To do so, the region would have to review each delegation (and superseding delegations) on a case by case basis to determine this.

Performance Tests

EPA stated that all performance tests are submitted only through CEDRI and no CBI submissions are allowed for reports under this section. Thus, there are no paper copies to produce. To clarify, all Performance Tests must be submitted to CEDRI. If a source has CBI, they must submit a non-CBI version to CEDRI and submit the CBI version to the CBI officer in OAR.

Semi-annual, Annual, and Annual for Sweeteners Reports

Hard copy reports submitted to HQ or regional offices will need to undergo a CBI review process which, for those who do not waive CBI claims, EPA anticipates may take up to six months. For those who do waive CBI claims, I understand EPA expects to begin producing those reports within two months and will continue producing reports, as they become available, on an interim basis. Additionally, if any CBI submissions were made separately from the CEDRI submission, I understand those will be either produced or, if not produced, will be noted as not produced in the records from OAQPS. HQ does not receive any compliance reports, that function is performed by the regional offices. EPA

did not discuss when we would start producing reports. EPA will task the regions to produce the following reports: All hard copy reports filed with the region after November 21, 2017 until September 11, 2019 and has not been uploaded to CEDRI:

- semiannual reports required by 40 C.F.R. § 60.5422(a)
- annual reports, required by 40 C.F.R. § 60.5420a(b)
- annual reports of excess emissions for sweetening Units, as required by 40 C.F.R. § 60.5423a(b)

That production will entail the CBI steps which we discussed, and we will begin producing records when those steps are complete.

Further, I understand that states and tribes who are authorized implementers of this program only sometimes submit a curtesy copy of compliance reports to EPA or notify EPA that it has received the compliance reports. EPA does not have a clear understanding of the scope of the regulated community or the proportion of reports for which EPA does not receive a curtesy copy.

EPA does not have a complete understanding of the scope. EPA has estimates that were used for rulemaking purposes, but that information is not of sufficient granularity to know who should be submitting reports.

Correspondence

I understand that EPA will begin the search for responsive HQ correspondence immediately. This includes correspondence with industry and other outside correspondence, as well as correspondence internal to EPA. I understand that EPA will start its search with records that reference "0000a" and one of the search terms contained in EDF's request letter. EDF agrees, on a tentative basis to limit the specific word "compliance" to those instances where it is used within 10 words of "0000a," in order to limit the number of emails that appear in the search results due to signatures from OECA employees. EDF is reserving the right to remove this consent if it appears relevant correspondence is not captured by the search limitation.

For responsive records in the regional offices, I understand that search will begin after regional offices begin the CBI process for compliance reports located in those offices. It is the production of reports under Item 1 of your request that will start after the CBI process is completed. The production of records under Item 2 of your request, will begin once we have determined the search terms which are used for the production of records for OECA are usable.

Currently, EDF does not anticipate EPA will search for any of the terms in EDF's request letter linked with any regulatory provision EPA provided in suggestion to EDF. However, EDF reserves the right to request EPA perform this search if it appears that the current search is not producing responsive records.

Productions

Finally, I understand that EPA anticipates being able to produce an interim set of records within two months. EPA will continue to provide records on an interim basis, with all the productions expected to be finished within six months.

Please let me know if I have missed anything or if EPA has a different understanding. Thank you again for taking the time to talk today. I will look forward to receiving the first interim production within two months. Please do not hesitate to reach out to me if it will assist with production.

Cheers,

Jessica Christy

Antoinette Powell Dickson, Esq.

FOIA Coordinator/Records Manager

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